

1 Craig K. Perry (NV Bar No. 03786)  
cperry@craigperry.com  
2 CRAIG K. PERRY & ASSOCIATES  
8010 W. Sahara Avenue, Suite 260  
3 Las Vegas, Nevada 89117  
Tel: (702) 228-4777

4 *Attorneys for Plaintiff*

5 Lauri A. Mazzuchetti (*pro hac vice*)  
lmazzuchetti@kelleydrye.com  
6 KELLEY DRYE & WARREN LLP  
7 One Jefferson Road, 2<sup>nd</sup> Floor  
Parsippany, New Jersey 07054  
8 Tel: 973-503-5924

9 Craig R. Anderson, Esq.  
Nevada Bar No. 6882  
10 MARQUIS AURBACH COFFING  
10001 Park Run Drive  
11 Las Vegas, Nevada 89145  
*Attorneys for Defendant*  
12 *Kohl's Department Stores, Inc.*

Evan M. Meyers (*pro hac vice*)  
emeyers@mcgpc.com  
MCGUIRE LAW, P.C.  
55 W. Wacker Dr., 9th Fl.  
Chicago, Illinois 60601  
Tel: (312) 893-7002

13  
14 **UNITED STATES DISTRICT COURT**

15 **DISTRICT OF NEVADA**

16 KIRBY SPENCER, individually and on  
17 behalf of all others similarly situated,

18 Plaintiff,

19 v.

20 KOHL'S DEPARTMENT STORES, INC.,

21 Defendant.

Case No. 2:14-cv-01646-RFB-CWH

**STIPULATION AND [PROPOSED] ORDER  
TO EXTEND DEADLINE TO SUBMIT  
AMENDED DISCOVERY PLAN AND  
SCHEDULING ORDER**

**(First Request)**

22  
23  
24 Plaintiff Kirby Spencer ("Plaintiff"), by and through his attorneys Craig K. Perry &  
25 Associates and McGuire Law, P.C., and Defendant Kohl's Department Stores, Inc. ("Defendant"  
26 or "Kohl's"), by and through its attorneys Marquis Aurbach Coffing, P.C. and Kelley Drye &  
27 Warren LLP, pursuant to Local Rules 6-1, 6-2 and 7-1, and Fed. R. Civ. P. 16, hereby stipulate as  
28 follows:

1           1.       Plaintiff commenced this action on October 7, 2014. (ECF No. 1).

2           2.       Pursuant to the Court's September 30, 2015 Order, Plaintiff filed his First  
3 Amended Complaint on October 13, 2015 (ECF No. 50), and Kohl's filed its Answer to the First  
4 Amended Complaint on November 13, 2015 (ECF No. 53).

5           3.       On November 24, 2015, this Court issued an Amended Scheduling Order setting a  
6 discovery deadline of May 3, 2016, a deadline for Plaintiff to file a motion for class certification  
7 of May 27, 2016, and a deadline for Defendant to file dispositive motions 60 days after the Court's  
8 ruling on the motion for class certification. (ECF No. 55).

9           4.       On March 2, 2016, by this Court's Order on Stipulation, the discovery deadline was  
10 extended until July 8, 2016, and the Plaintiff's deadline to file a motion for class certification was  
11 extended until August 2, 2016 (ECF No. 59).

12          5.       On July 8, 2016, the parties filed a Joint Motion to Stay Proceedings after a Motion  
13 to Transfer was filed in a different case before the Joint Panel on Multidistrict Litigation (ECF No.  
14 62), which was granted by this Court on July 13, 2016, staying this action (ECF No. 63).

15          6.       Following the denial of transfer to the JPML, this Court ordered that the stay be  
16 lifted, and required the parties to submit a joint discovery plan and scheduling order (ECF No. 66).

17          7.       On November 1, 2016, this Court issued a Scheduling Order, extending the  
18 discovery deadline until April 28, 2017, and extending Plaintiff's deadline to file a motion for  
19 class certification until May 26, 2017 (ECF No. 70).

20          8.       On February 6, 2017, this Court granted Kohl's Motion to Stay pending the  
21 decision of the D.C. Circuit Court of Appeals in *ACA Int'l v. Fed. Commc'ns Comm.*, No. 15-1211  
22 (D.C. Cir. 2015) (ECF No. 83).

23          9.       By Text Order entered on July 12, 2018, this Court lifted the stay following the  
24 D.C. Circuit's March 2018 decision, and ordered that the parties submit a proposed discovery plan  
25 and scheduling order, and that Kohl's file a dispositive motion relating to the D.C. Circuit's March  
26 2018 decision, within two weeks, by July 26, 2018 (ECF No. 84).

27          10.      The parties are presently discussing a potential resolution of this matter and require  
28 additional time to do so. As such, Plaintiff and Kohl's jointly request that this Court extend the

1 deadlines set forth in the Court's July 12, 2018 Order (ECF No. 84) for a period of twenty-one  
2 (21) days, until August 16, 2018. The requested extension will maximize efficiencies by  
3 providing the parties with an opportunity to discuss resolution prior to expending the time and  
4 resources to prepare the required filings, and prior to the Court entering deadlines that may  
5 ultimately not be necessary.

6 11. This Stipulation is made in good faith and not for the purpose of delay or for any  
7 other improper purpose. No trial date has yet been set in this case and no motions are currently  
8 pending.

9 WHEREFORE, Plaintiff Kirby Spencer and Defendant Kohl's Department Stores, Inc.  
10 hereby stipulate and respectfully request that the Court enter an Order: (i) extending the deadline  
11 for the parties to file a joint discovery plan and scheduling order, and for Kohl's to file a  
12 dispositive motion relating to the D.C. Circuit's March 2018 decision, by twenty-one (21) days,  
13 until August 16, 2018.

14 Dated: July 25, 2018

Respectfully submitted,

MCGUIRE LAW, P.C.

By: /s/ Evan M. Meyers

Evan M. Meyers (admitted *pro hac vice*)

*Attorneys for Plaintiff Kirby Spencer*

18 Dated: July 25, 2018

KELLEY DRYE & WARREN LLP

By: /s/Lauri A. Mazzuchetti

Lauri A. Mazzuchetti (admitted *pro hac vice*)  
(via email authorization)

*Attorneys for Defendant*

*Kohl's Department Stores, Inc.*

22 Pursuant to Stipulation, **IT IS SO ORDERED.**

24 Dated: July 30, 2018

By: 

Magistrate Judge Carl W. Hoffman  
United States Magistrate Judge